that, "If it were conceded that the ordinary relations between directors and shareholders are not of such a fiduciary nature as to make it the duty of the director to disclose to the shareholder general knowledge which he possesses in regard to the shares before he purchases, yet there are cases where by reason of the special facts the duty does exist." A few cases of a still later date have gone even further and have held that there is a duty to disclose, though no "special facts" exist. *Dawson* v. *National Life Ins. Co.*, 176 Ia. 362. See 8 MICH. L. REV. 267, and 19 MICH. L. REV. 698. In the principal case the defendant's official connection with the trust company might well place him in the same semi-fiduciary position as that of the director. A state of facts somewhat similar to those of the principal case was presented in *Jones* v. *Stewart*, 62 Neb. 207. The plaintiff had forgotten the existence of a certain bank deposit, and the defendant, who knew about it, though he was not connected with the bank, induced the plaintiff, as consideration for the conveyance of some relatively worthless land, to assign the deposit to him by executing the necessary papers without reading them. When the plaintiff learned what he had done he sued the defendant in case for deceit. A decision for the defendant was predicated upon the fact that the parties had contracted on equal terms and that there was no fiduciary relationship between them. The plaintiff's position was somewhat weaker than that of the plaintiff in the principal case because there was no evidence of an abnormal mental condition, nor was the defendant connected in any way with the bank. So, in spite of the imposition on the plaintiff which would have made a decree granting relief seem equitable, the two cases may be distinguished.

EVIDENCE—CHARACTER WITNESSES IN SUPPORT OF VERACITY.—Testimony of the accused, who was his own witness in a trial for robbery, was directly contradictory to the testimony of a witness for the state. *Held*, accused was entitled to support his evidence by calling character witnesses to sustain his general reputation for truth and veracity. *Smith* v. *State* (Okla. Cr. App., 1922), 202 Pac. 1046.

The court takes the broad stand that when the veracity of the witness is *in any manner* called into question character witnesses in support of same may be introduced. The only authorities cited are three prior decisions by the same court, *Friel* v. *State*, 6 Okla. Cr. 532; *Gilbert* v. *State*, 8 Okla. Cr. 329; *Davidson* v. *State*, 15 Okla. Cr. 85; and in only one of the three (*Gilbert* v. *State*) is the question directly raised and discussed. None of these cases discuss the earlier *contra* holding by the supreme court of the state, which at that time was the court of last resort in criminal as well as in civil appeals. *First National Bank* v. *Blakeman*, 19 Okla. 106. This may result in having one rule enforced in criminal cases and another in civil cases. As a general rule, however, no such distinction is recognized. There certainly is no logical basis for it. The same objections so clearly pointed out in *Tedens* v. *Schumers*, 112 Ill. 263, 266, apply in both cases, viz., that the trial would become interminable, and the main issues befogged perhaps

by the large number of side issues with respect to the veracity of witnesses. The cogency of these objections has determined the issue in all but a very few jurisdictions. *Gertz* v. *Fitchburg R. Co.*, 137 Mass. 77, 78; *Farr* v. *Thompson*, Cheves (S. C.) 37; *Louisville & N. R. Co.* v. *M'Clish*, 115 Fed. 268; *Texas & P. R. Co.* v. *Raney*, 86 Tex. 363; *Jacobs* v. *State*, 42 Tex. Cr. 353. [A very recent Texas decision in a civil action is in accord with the principal case. *Davis* v. *Hudson*, 135 S. W. 1107. The earlier Texas view, however, is with the general rule; and since the later case was not in the court of last resort, nor the point discussed, its weight would appear to be negligible.] But in at least one jurisdiction following the general rule the courts have permitted exceptions under special circumstances. *State* v. *DeWolf*, 8 Conn. 92; *Merriam* v. *Hartford & N. H. R. Co.*, 20 Conn. 354. And perhaps with perfect consistency with the spirit and reasons for the rule, an exception might be made where the accused in a criminal trial is a witness in his own behalf. When the crime charged involves any moral turpitude the very fact that the accused is being tried for such a crime involves a direct and serious attack upon his credibility as a witness, and evidence of his reputation for veracity might properly be admissible. But see *Spurr* v. *U. S.*, 87 Fed. 701, 713, *contra*.

EVIDENCE—RES GESTAE.—In a trial for murder the statement by the deceased that "a stranger shot (him)," made in reply to a question by a police official, was admitted in evidence. It appeared that the statement was made immediately after the deceased recovered his speech, although about thirty minutes had elapsed since the shooting. Upon appeal, it was *held* admissible as part of the *res gestae*. *Commonwealth* v. *Puntario* (Penn., 1922), 115 Atl. 831.

The instant case is supposed to be representative of an exception to the hearsay rule which Mr. Wigmore confesses to approach "with a feeling akin to despair." 3 WIGMORE ON EV., § 1745. That courts style such statements *res gestae* is not especially illuminating. The use of this phrase is apt to lead to confusion with the Verbal Act doctrine under which extra-judicial statements are admissible to explain or give color to otherwise equivocal acts which they accompany, and so-called spontaneous statements which get their probative value from the fact that the declarant is under some nervous shock and has very slight opportunity for fabrication. As to how nearly contemporaneous with the transaction to which it refers the statement must be no rule can be given. *Kennedy* v. *R. Co.*, 130 N. Y. 654. Very much must be left to the discretion of the trial court. *State* v. *Ah Loi*, 5 Nev. 101. That the declarant has been without the power of articulation in the meantime, as in the principal case, has often been deemed important. *Lewis* v. *State*, 29 Tex. A. 201 (one and a half hours); *Eby* v. *Ins. Co.*, 258 Pa. 525 (fifteen minutes or more). The reason for this is not altogether obvious, for inability to speak is apt to encourage premeditated rather than spontaneous statements after speech is regained. What the law distrusts is not after-speech but after-thought. *Ins. Co.* v. *Sheppard*, 85 Ga. 751; *Green* v.